

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JUSTIN LOMAKO,

Petitioner,

vs.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION,

Respondent.

No. C 07-5087 JSW (PR)

ORDER OF TRANSFER


Petitioner is a state prisoner currently incarcerated at Corcoran State Prison, located in Corcoran, California, within the venue of the United States District Court for the Eastern District of California. On October 3, 2007, Petitioner filed this petition regarding his challenge to a prison disciplinary proceeding. A petition for a writ of habeas corpus made by a person in custody under the judgment and sentence of a state court of a state which contains two or more federal judicial districts may be filed in either the district of confinement or the district of conviction. *See* 28 U.S.C. § 2241(d). Each of such districts shall have concurrent jurisdiction to entertain the petition; however, the district court for the district where the petition is filed may transfer the petition to the other district in the furtherance of justice. *See id.* However, if the petition is directed to the manner in which a sentence is being executed, e.g., if it involves parole or time credits claims, the district of confinement is the preferable forum. *See* Habeas L.R. 2254-3(a); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989).

Petitioner's claims are directed to the execution of sentence, in that they involve a credit forfeiture as a result of a prison disciplinary proceeding. Therefore, this Court will

1 transfer this action to the United States District Court for the Eastern District of
2 California. Accordingly, IT IS ORDERED in the interest of justice, and pursuant to 28
3 U.S.C. § 1406(a), that this action be TRANSFERRED to the United States District Court
4 for the Eastern District of California. The Clerk of the Court shall transfer this matter
5 forthwith.

6 IT IS SO ORDERED.

7 DATED: October 25, 2007

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9 _____
10 JEFFREY S. WHITE
11 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JUSTIN LOMAKO,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS AND
REHABILITATION et al,

Defendant.

Case Number: CV07-05087 JSW

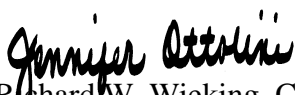
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 25, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Justin Kama Lomako T-45332
P.O. Box 8800
Corcoran, CA 93212

Dated: October 25, 2007


Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk